

10/534,838

REMARKS

The Applicant thanks the Examiner for the telephone interview held on January 28, 2009 during which the allowable claims 29, 30 and the inventive merits of the application were discussed. The Applicant and Examiner were unable to reach an agreement of acceptable claim language for distinguishing the claims of the application from the currently cited references.

The Applicant thanks the Examiner for indicating that claim 30 would be allowable if appropriately amended to overcome the raised 35 U.S.C. § 112 rejection, while claim 29 would be allowable if appropriately amended to overcome the raised 35 U.S.C. § 112 rejection and to include all of the limitations of the base claim and any intervening claims. In accordance with this indication, claims 29 and 30 have been appropriately revised. Claim 29 has been rewritten in independent form to include all of the limitations of the base claim and any intervening claims. These amended independent claims are now believed to be allowable.

The abbreviation "ca." as found in paragraph [008] is an abbreviation of the word "circa", which translates into the word "about" or "approximately". Paragraph [008] has been amended in the response of Aug. 8, 2008 to clarify this translation.

Claims 23, 24 and 26-43 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly amended, by the above claim amendments, and the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections. The entered claim amendments are directed solely at

2/9/09 - 10:17 AM

10/534,838

overcoming the raised indefiniteness rejections and are not directed at distinguishing the present invention from the art of record in this case.

Claims 23, 24, 26-28 and 31-35 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over Page `740 (US 6,234,740) in view of DE `715 (German reference 82 34 715) and FR `461 (French reference 1.554.461). The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the above amendments and the following remarks.

Page `740 relates to a vehicle cargo lift that includes a frame 2 with a single planar support surface 1 and a *single* lift platform 9 that is located at the rear of the vehicle—not at least two loading boxes or loading surfaces, as presently claimed. The single planar support surface 1 and the single lift platform 9 are both supported by a frame 3 which is affixed to a chassis of a vehicle at suitable support points. The lift platform 9 includes a pair of posts 10 that slide up and down within hollow members 7. The platform 9 is lowered by hydraulic rams 8 which are located at each of the four corners of the platform 9.

With this construction, the load on the platform 9 needs to be precisely placed, because if the load is unbalanced, the platform will not be level during movement and the posts 10 will not be properly received by the hollow members 7 and thus the relative sliding motion, between the posts and the respective hollow members 7, is hindered.

The Applicant asserts that the cargo lift that is taught, suggested and disclosed by Page `740 is distinctly different from the presently claimed invention. As currently claimed, the vehicle with loading boxes includes a roller door 20 which is provided at the rear of the vehicle. This roller door is attached to the vehicle frame such that the door can be rolled open and expose the loading surface for the purpose of loading or

2/9/2009 10:17 AM

10/534,838

unloading cargo from the rear of the vehicle. Amended claim 23 has at least one lateral opening for providing access to one of the least two loading boxes or loading surfaces 7, 8, 9 at the side of the vehicle. A sliding door 16 encloses the at least one lateral opening thus preventing access to one of the at least two loading boxes or loading surfaces. The laterally sliding door 16 communicates with the roller door 20 providing guidance as the roller door 20 opens and closes the rear-ward facing opening at the rear of the vehicle. These features of the presently claimed invention are clearly distinguish the claims from the teachings of Page `740.

The Applicant believes that the amendments to claim 23 would not require further consideration or search by the Examiner. These amendments essentially include the subject matter of claims 27 and 29, which were previously considered by the Examiner.

The Applicant acknowledges that the additional references of DE `715 and FR `461 may arguably relate to the features indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base reference with this additional art still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. As such, all of the raised rejections should be withdrawn at this time in view of the above amendments and remarks.

Claims 38-41, 42, 43 and 44 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over Page `740 in view of DE `715 and FR `461 and further in view of one of Kiehl et al. `155 (U.S. Publication No. 2003/0214155), Brown `066 (U.S. 4,283,066) or Wall `899 (U.S. Design No. 747,899). The Applicant acknowledges and respectfully

2/9/09 10:17 AM

10/534,838

traverses the raised obviousness rejection in view of the above amendments and the following remarks.

The Applicant acknowledges that the additional references of Kiehl et al. '155, Brown '066 or Wall '899 may arguably relate to the features indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base references of Page '740 in view of DE '715 with this additional art still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. As such, all of the raised rejections should be withdrawn at this time in view of the above amendments and remarks.

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, independent claim 23 of this application now recite the features of "a sliding door (16) encloses the at least one lateral opening... and a roller door (20) is provided for closing the rearward-facing opening at the rear of the vehicle, the sliding door (16) communicates with the roller door 20 providing guidance as the roller door 20 closes the rear-ward facing opening". Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Page '740, DE '715, FR '461, Kiehl et al. '155, Brown '066 and/or

2/9/09 10:17 AM

10/534,838

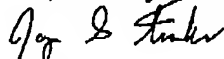
Wall '899 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



Jay S. Franklin, Reg. No. 54,105

Customer No. 020210

Davis & Bujold, P.L.L.C.

112 Pleasant Street

Concord, NH 03301-2931

Telephone 603-226-7490

Facsimile 603-226-7499

E-mail: patent@davisandbujold.com

2/9/09 - 10:17 AM